

111TH CONGRESS  
1ST SESSION

# H. R. 3101

To ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2009

Mr. MARKEY of Massachusetts introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To ensure that individuals with disabilities have access to emerging Internet Protocol-based communication and video programming technologies in the 21st century.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Twenty-first Century Communications and Video Acces-  
6 sibility Act of 2009”.

7 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

### TITLE I—COMMUNICATIONS ACCESS

Sec. 101. Definitions.

Sec. 201. Commission inquiry on closed captioning decoder and video description capability, user interfaces, and video programming guides and menus.

Sec. 202. Closed captioning decoder and video description capability.

Sec. 203. Video description and closed captioning.

Sec. 204. User interfaces regulations.

Sec. 205. Access to video programming guides and menus.

### 3 SEC. 101. DEFINITIONS.

(1) by adding at the end the following new paragraphs:

“(54) INTERCONNECTED VOIP SERVICE.—The term ‘interconnected VoIP service’ has the meaning given such term by section 9.3 of the Commission’s rules (47 C.F.R. 9.3).

•HR 3101 IH

1 “(A) interconnected VoIP service;

2 “(B) non-interconnected VoIP service;

3 “(C) electronic messaging; and

4 “(D) video conferencing.

5 “(56) NON-INTERCONNECTED VOIP SERVICE.—

6 The term ‘non-interconnected VoIP service’—

7 “(A) means a service that—

8 “(i) enables real-time voice commu-

9 nications that originate from or terminate

10 to the user’s location using Internet pro-

11 tocol or any successor protocol; and

12 “(ii) requires Internet protocol com-

13 patible customer premises equipment; and

14 “(B) does not include any service that is

15 an interconnected VoIP service.

16 “(57) ELECTRONIC MESSAGING.—The term

17 ‘electronic messaging’ means a service that provides

18 non-voice messages in text form between persons

19 over communications networks.

20 “(58) INTERNET ACCESS EQUIPMENT.—The

21 term ‘Internet access equipment’ means equipment

22 that is used to combine computer processing, infor-

23 mation provision and computer interactivity with

24 data transport, enabling users to run a variety of

25 applications, including e-mail.

1           “(59) INTERNET ACCESS SERVICE.—The term  
 2           ‘Internet access service’ means a service that com-  
 3           bines computer processing, information provision,  
 4           and computer interactivity with data transport, ena-  
 5           bling end users to access the Internet and use a va-  
 6           riety of applications, including e-mail.

7           “(60) VIDEO CONFERENCING.—The term ‘video  
 8           conferencing’ means a service that provides real-time  
 9           video communications, including audio, to enable  
 10          users to share information of the user’s choosing.

11          “(61) CONSUMER GENERATED MEDIA.—The  
 12          term ‘consumer generated media’ means posts or  
 13          content made by consumers to online sites and  
 14          venues on the Internet, including video, audio, and  
 15          multimedia content created by such consumers.”;  
 16          and

17          (2) by reordering paragraphs (1) through (52)  
 18          and the paragraphs added by paragraph (1) of this  
 19          section in alphabetical order based on the headings  
 20          of such paragraphs, and renumbering such para-  
 21          graphs as so reordered.

22 **SEC. 102. HEARING AID COMPATIBILITY.**

23          (a) COMPATIBILITY REQUIREMENTS.—Section  
 24          710(b)(1) of the Communications Act of 1934 (47 U.S.C.  
 25          610(b)(1)) is amended—

1           (1) by striking “and” at the end of subpara-  
2 graph (A);

3           (2) by inserting “and” after the comma at the  
4 end of subparagraph (B); and

5           (3) by inserting after subparagraph (B) the fol-  
6 lowing new subparagraph:

7                   “(C) to the extent technologically feasible,  
8 all customer premises equipment used to pro-  
9 vide advanced communications that provides  
10 voice communication via a built-in speaker  
11 (typically held to the ear) and that are manu-  
12 factured in the United States (other than for  
13 export) more than one year after the date of en-  
14 actment of the Twenty-first Century Commu-  
15 nications and Video Accessibility Act of 2009,  
16 or are shipped in interstate commerce in the  
17 United States more than one year after such  
18 date,”.

19       (b) TECHNICAL STANDARDS.—Section 710(c) of the  
20 Communications Act of 1934 (47 U.S.C. 610(c)) is  
21 amended by adding at the end the following: “A telephone  
22 or other customer premises equipment that is compliant  
23 with a relevant technical standard developed through a  
24 public participation process will be deemed compatible  
25 with this section if such standard has been reviewed and

1 approved by national organizations representing con-  
2 sumers who will be using such telephone or equipment,  
3 until such times as the Commission may deem otherwise.  
4 The Commission shall consult with the public, including  
5 people with hearing loss, in establishing or approving such  
6 technical standards. The Commission may delegate this  
7 authority to an employee pursuant to section 5(c). The  
8 Commission shall designate the national consumer organi-  
9 zations for purposes of this section and shall remain the  
10 final arbiter as to whether the standard meets the require-  
11 ments of this section.”

12 **SEC. 103. RELAY SERVICES.**

13 (a) DEFINITION.—Paragraph (3) of section 225(a) of  
14 the Communications Act of 1934 (47 U.S.C. 225(a)(3))  
15 is amended to read as follows:

16 “(3) TELECOMMUNICATIONS RELAY SERV-  
17 ICES.—The term ‘telecommunications relay services’  
18 means telephone transmission that provides the abil-  
19 ity for an individual who is deaf, hard of hearing,  
20 deaf-blind, or who has a speech disability to engage  
21 in communication by wire or radio with one or more  
22 individuals, in a manner that is functionally equiva-  
23 lent to the ability of a hearing individual who does  
24 not have a speech disability to communicate using  
25 voice communication services by wire or radio.”.

1 (b) INTERNET PROTOCOL-BASED RELAY SERV-  
2 ICES.—Title VII of such Act is amended by adding at the  
3 end the following new section:

4 **“SEC. 715. INTERNET PROTOCOL-BASED RELAY SERVICES.**

5 “Within one year after the date of enactment of the  
6 Twenty-first Century Communications and Video Accessi-  
7 bility Act of 2009, each interconnected VoIP service pro-  
8 vider and each provider of non-interconnected VoIP serv-  
9 ice shall participate in and contribute to the Telecommuni-  
10 cations Relay Services Fund established in section  
11 64.404(c)(5)(iii) of the Commission’s regulations (47  
12 C.F.R. 64.404(c)(5)(iii)), as in effect on the date of enact-  
13 ment of such Act, in a manner prescribed by the Commis-  
14 sion by regulation to provide for obligations of such pro-  
15 viders that are consistent with and comparable to the obli-  
16 gations of other contributors to such Fund.”.

17 **SEC. 104. ACCESS TO INTERNET-BASED SERVICES AND**  
18 **EQUIPMENT.**

19 (a) TITLE VII AMENDMENT.—Title VII of the Com-  
20 munications Act of 1934 (47 U.S.C. 601 et seq.) is  
21 amended by inserting after section 715 (as added by sec-  
22 tion 103 of this Act) the following new sections:

1   **“SEC. 716. ACCESS TO INTERNET-BASED SERVICES AND**  
2                   **EQUIPMENT.**

3           “(a) **MANUFACTURING.**—With respect to equipment  
4 manufactured after the effective date of the regulations  
5 established pursuant to subsection (e), and subject to  
6 those regulations, a manufacturer of equipment used for  
7 advanced communications, including end user equipment,  
8 network equipment, and software, shall ensure that the  
9 equipment and software that such manufacturer designs,  
10 develops, and fabricates shall be accessible to and usable  
11 by individuals with disabilities, unless the requirement of  
12 this subsection would result in an undue burden.

13          “(b) **SERVICE PROVIDERS.**—With respect to services  
14 provided after the effective date of the regulations estab-  
15 lished pursuant to subsection (e), and subject to those reg-  
16 ulations, a provider of advanced communications shall en-  
17 sure that services offered by such provider are accessible  
18 to and usable by individuals with disabilities, unless the  
19 requirement of this subsection would result in an undue  
20 burden.

21          “(c) **COMPATIBILITY.**—Whenever the requirements of  
22 subsections (a) and (b) constitute an undue burden, a  
23 manufacturer or provider shall ensure that its equipment  
24 or service is compatible with existing peripheral devices  
25 or specialized customer premises equipment commonly  
26 used by individuals with disabilities to achieve access, un-



1 less the requirement of this subsection would result in an  
2 undue burden.

3 “(d) NETWORK FEATURES, FUNCTIONS, AND CAPA-  
4 BILITIES.—Each provider of advanced communications  
5 has the duty not to install network features, functions, or  
6 capabilities that do not comply with the regulations estab-  
7 lished pursuant to this section.

8 “(e) REGULATIONS.—Within one year after the date  
9 of enactment of the Twenty-first Century Communications  
10 and Video Accessibility Act of 2009, the Commission shall  
11 prescribe such regulations as are necessary to implement  
12 this section. In prescribing the regulations, the Commis-  
13 sion shall—

14 “(1) include standards to ensure the accessi-  
15 bility, usability, and compatibility of advanced com-  
16 munications and the equipment used for advanced  
17 communications by individuals with disabilities; and

18 “(2) provide that advanced communications, the  
19 equipment used for advanced communications, and  
20 advanced communications service networks used to  
21 provide such advanced communications may not im-  
22 pair or impede the accessibility of information con-  
23 tent when accessibility has been incorporated into  
24 that content for transmission through advanced  
25 communications, equipment used for advanced com-

1       munications, or advanced communications service  
2       networks.

3       “(f) SERVICES AND EQUIPMENT SUBJECT TO SEC-  
4       TION 255.—The requirements of this section shall not  
5       apply to any equipment or services, including inter-  
6       connected VoIP service, that are subject to the require-  
7       ments of section 255 on the date of enactment of the  
8       Twenty-first Century Communications and Video Accessi-  
9       bility Act of 2009. Such services and equipment shall re-  
10      main subject to the requirements of section 255.

11      “(g) DEFINITION.—For purposes of the Twenty-first  
12      Century Communications and Video Accessibility Act of  
13      2009, the term ‘undue burden’ means significant difficulty  
14      or expense. In determining whether the requirements of  
15      any provision of this section would result in an undue bur-  
16      den, the factors to be considered include—

17              “(1) the nature and cost of the steps required  
18              to develop and manufacture the product in question;

19              “(2) the impact on the operation of the manu-  
20              facturer or provider;

21              “(3) the financial resources of the manufacturer  
22              or provider; and

23              “(4) the type of operations of the manufacturer  
24              or provider.

1 **“SEC. 717. ENFORCEMENT AND REPORTING OBLIGATIONS.**

2       “(a) COMPLAINT AND ENFORCEMENT PROCE-  
3 DURES.—Within one year after the date of enactment of  
4 the Twenty-first Century Communications and Video Ac-  
5 cessibility Act of 2009, the Commission shall establish reg-  
6 ulations that facilitate the filing of complaints that allege  
7 a violation of section 255, 716, 718, or 719, establish for-  
8 mal and informal procedures for enforcement actions by  
9 the Commission with respect to such violations, and imple-  
10 ment the reporting obligations of paragraph (6) for manu-  
11 facturers and providers subject to such sections. Such reg-  
12 ulations shall include the following provisions:

13               “(1) NO FEE.—The Commission shall not  
14 charge any fee to an individual who files a complaint  
15 alleging a violation of section 255, 716, 718, or 719.

16               “(2) RECEIPT OF COMPLAINTS.—The Commis-  
17 sion shall establish separate and identifiable elec-  
18 tronic, telephonic, and physical receptacles for the  
19 receipt of complaints filed under section 255, 716,  
20 718, or 719.

21               “(3) COMPLAINTS TO THE COMMISSION.—Any  
22 person alleging a violation of section 255, 716, 718,  
23 or 719 by a manufacturer of equipment or provider  
24 of service subject to such sections may file a com-  
25 plaint with the Commission. The Commission shall  
26 investigate the allegations in such complaint and

1 issue a final order concluding the investigation with-  
2 in 180 days of the date on which such complaint was  
3 filed with the Commission, unless such complaint is  
4 resolved before such time. The Commission may con-  
5 solidate for investigation and resolution complaints  
6 alleging substantially the same violation by the same  
7 manufacturer or provider. Such final order shall in-  
8 clude a determination as to whether any violation  
9 has occurred and, if the Commission determines that  
10 a violation has occurred, address the manner in  
11 which the manufacturer or service provider will  
12 achieve accessibility, compatibility, or usability re-  
13 quired by section 255, 716, 718, or 719. If a deter-  
14 mination is made that a violation has not occurred,  
15 the Commission shall provide the basis for such de-  
16 termination, including the basis for determining that  
17 an accessibility feature requested is not readily  
18 achievable under section 255 or will create an undue  
19 burden under section 716, 718, or 719.

20 “(4) OPPORTUNITY TO RESPOND.—Before the  
21 Commission makes a determination pursuant to  
22 paragraph (3), the party that is the subject of the  
23 complaint shall have the opportunity to respond to  
24 such complaint, and may include in such response  
25 any factors that it deems relevant to such deter-

1 mination and any available alternatives that might  
2 constitute an effective substitute for the equipment  
3 or service that is the subject of such complaint.

4 “(5) CEASE AND DESIST ORDERS.—If the Com-  
5 mission’s investigation pursuant to paragraph (3)  
6 determines that a manufacturer of equipment or  
7 provider of service is engaged in an act prohibited by  
8 section 255, 716, 718, or 719, or is failing to per-  
9 form any act required by section 255, 716, 718, or  
10 719, the Commission shall have the authority to  
11 order such manufacturer or provider to cease from  
12 violating such section.

13 “(6) REPORTING.—(A) Each manufacturer of  
14 equipment used for advanced communications and  
15 each provider of advanced communications shall—

16 “(i) file a report with the Commission, on  
17 an annual basis, that describes the steps that  
18 have been taken by such manufacturer or pro-  
19 vider during the preceding year to implement  
20 sections 255 and 716, including—

21 “(I) information about the manufac-  
22 turer’s or provider’s efforts to consult with  
23 people with disabilities;

24 “(II) descriptions of the accessibility  
25 features of its products and services; and

1                   “(III) information about the compat-  
2                   ibility of their products and services with  
3                   peripheral devices or specialized customer  
4                   premise equipment commonly used by peo-  
5                   ple with disabilities to achieve access; and

6                   “(ii) maintain, in the ordinary course of  
7                   business, records of the efforts taken by such  
8                   manufacturer or provider to implement sections  
9                   255 and 716.

10                  “(B) The report required by subparagraph (A)  
11                  shall be submitted to the Commission through the  
12                  use of a compliance report form, to be established by  
13                  the Commission, that is comparable to the structure  
14                  of the form that is used to monitor and report on  
15                  the progress of the implementation of the Commis-  
16                  sion’s hearing aid compatibility requirements estab-  
17                  lished in WT Docket No. 01–309.

18                  “(7) FAILURE TO ACT.—If the Commission  
19                  fails to carry out any of its responsibilities to act  
20                  upon a complaint in the manner prescribed in para-  
21                  graph (3), the person that filed such complaint may  
22                  bring an action in the nature of mandamus in an  
23                  appropriate Federal district court to compel the  
24                  Commission to carry out any such responsibility.

1           “(8) COMMISSION JURISDICTION.—The limita-  
2           tions of section 255(f) shall apply to any claim that  
3           alleges a violation of section 255, 716, 718, or 719.  
4           Nothing in this paragraph affects or limits any ac-  
5           tion for mandamus under paragraph (7) or any ap-  
6           peal pursuant to section 402(b)(10).

7           “(9) PRIVATE RESOLUTIONS OF COMPLAINTS.—  
8           Nothing in the Commission’s rules or this Act shall  
9           be construed to preclude a person who files a com-  
10          plaint and a manufacturer or provider from resolv-  
11          ing a formal or informal complaint prior to the Com-  
12          mission’s final determination in a complaint pro-  
13          ceeding. In the event of such a resolution, the par-  
14          ties shall jointly request dismissal of the complaint  
15          and the Commission shall grant such request.

16          “(b) REPORTS TO CONGRESS.—Every two years after  
17          the date of enactment of the Twenty-first Century Com-  
18          munications and Video Accessibility Act of 2009, the Com-  
19          mission shall submit a report to the Committee on Com-  
20          merce, Science, and Transportation of the Senate and the  
21          Committee on Energy and Commerce of the House of  
22          Representatives that assesses the level of compliance with  
23          section 255 or 716 and evaluates the extent to which any  
24          accessibility barriers still exist with respect to new tech-  
25          nologies. Such report shall include—

1 “(1) the number and nature of complaints re-  
2 ceived pursuant to subsection (a) during the two  
3 years that are the subject of the report;

4 “(2) actions taken to resolve such complaints  
5 under this section, including cease and desist orders  
6 issued and forfeiture penalties assessed;

7 “(3) the length of time that was taken by the  
8 Commission to resolve each such complaint; and

9 “(4) the number, status, nature, and outcome  
10 of any actions for mandamus filed pursuant to sub-  
11 section (a)(7) and the number, status, nature, and  
12 outcome of any appeals filed pursuant to section  
13 402(b)(10).

14 “(c) COMPTROLLER GENERAL ENFORCEMENT  
15 STUDY.—

16 “(1) IN GENERAL.—The Comptroller General  
17 shall conduct a study to consider and evaluate—

18 “(A) the Commission’s compliance with the  
19 requirements of the Twenty-first Century Com-  
20 munications and Video Accessibility Act of  
21 2009, including the Commission’s level of com-  
22 pliance with the deadlines (including deadlines  
23 for acting on complaints) established in such  
24 Act;



1           “(B) whether the enforcement actions  
2           taken by the Commission pursuant to such Act  
3           have been appropriate and effective in ensuring  
4           compliance with such requirements; and

5           “(C) whether the enforcement provisions  
6           established in such Act are adequate to ensure  
7           compliance with such requirements.

8           “(2) REPORT.—Not later than 5 years after the  
9           date of enactment of the Twenty-first Century Com-  
10          munications and Video Accessibility Act of 2009, the  
11          Comptroller General shall submit a report to the  
12          Senate Committee on Commerce, Science, and  
13          Transportation and the House of Representatives  
14          Committee on Energy and Commerce on the results  
15          of the study required by paragraph (1), with rec-  
16          ommendations for how the enforcement process and  
17          measures with respect to such Act may be modified  
18          or improved.

19          “(d) CLEARINGHOUSE.—Within one year after the  
20          date of enactment of the Twenty-first Century Commu-  
21          nications and Video Accessibility Act of 2009, the Com-  
22          mission shall, in consultation with the Architectural and  
23          Transportation Barriers Compliance Board, the National  
24          Telecommunications and Information Administration,  
25          trade associations, and organizations representing individ-

1 uals with disabilities, establish a clearinghouse of informa-  
2 tion on the availability of accessible products and services  
3 and accessibility solutions required under sections 255 and  
4 716. Such information shall be made publicly available on  
5 the Commission’s website and by other means, and shall  
6 include an annually updated list of products and services  
7 with access features.

8 “(e) OUTREACH AND EDUCATION.—Within one year  
9 after the date of enactment of the Twenty-first Century  
10 Communications and Video Accessibility Act of 2009, the  
11 Commission, in coordination with the National Tele-  
12 communications and Information Administration, shall  
13 conduct an informational and educational program de-  
14 signed to inform the public about the availability of the  
15 clearinghouse, and the protections and remedies available  
16 under sections 255 and 716.”.

17 (b) TITLE V AMENDMENTS.—Section 503(b)(2) of  
18 such Act (47 U.S.C. 503(b)(2)) is amended—

19 (1) by redesignating subparagraphs (C) and  
20 (D) as subparagraphs (D) and (E), respectively;

21 (2) by inserting after subparagraph (B) the fol-  
22 lowing:

23 “(C) If the violator is a manufacturer of  
24 telecommunications equipment, a manufacturer  
25 of equipment used for advanced communica-

1           tions, or a provider of advanced communica-  
2           tions, who is subject to the requirements of sec-  
3           tion 255, 716, 718, or 719, and who is deter-  
4           mined by the Commission to have violated any  
5           such requirement, the manufacturer of tele-  
6           communications equipment, the manufacturer  
7           of equipment used for advanced communica-  
8           tions, or the provider of advanced communica-  
9           tions shall be liable to the United States for a  
10          forfeiture penalty. The amount of any penalty  
11          determined under this paragraph shall not ex-  
12          ceed \$100,000 for each violation or each day of  
13          a continuing violation, except that the amount  
14          assessed for any continuing violation shall not  
15          exceed a total of \$1,000,000 for any single act  
16          or failure to act.”; and

17          (3) in subparagraph (D) (as so redesignated by  
18          paragraph (1) of this subsection), by striking “sub-  
19          paragraphs (A) or (B)” and inserting “subpara-  
20          graphs (A), (B), or (C)”.

21          (c) REVIEW OF COMMISSION DETERMINATIONS.—  
22          Section 402(b) of such Act (47 U.S.C. 402(b)) is amended  
23          by adding the following new paragraph:

1           “(10) By any person who is aggrieved or whose  
2           interests are adversely affected by a determination  
3           made by the Commission under section 717(a)(3).”.

4   **SEC. 105. UNIVERSAL SERVICE.**

5           (a) CONSUMERS WITH DISABILITIES.—Section  
6   254(c) of the Communications Act of 1934 (47 U.S.C.  
7   254) is amended by adding at the end the following new  
8   paragraph:

9           “(4) INDIVIDUALS WITH DISABILITIES.—Not-  
10   withstanding subsection (j), the Commission shall  
11   authorize Lifeline and Link-Up assistance programs  
12   and other Federal universal service support mecha-  
13   nisms to be used for those telecommunications serv-  
14   ices, Internet access services, and advanced commu-  
15   nications that are needed by individuals with disabil-  
16   ities, who are otherwise qualified for such programs  
17   or mechanisms, to engage in communication with  
18   one or more other individuals in a manner that is  
19   functionally equivalent to the ability of individuals  
20   without disabilities to engage in such communica-  
21   tion.”.

22           (b) ALLOCATION OF USF FOR SERVICES FOR INDIVIDUALS WITH DISABILITIES.—Section 254 of the Com-  
23   munications Act of 1934 (47 U.S.C. 254) is further  
24   amended—  
25

1           (1) by redesignating subsections (i) through (l)  
2           as subsections (j) through (m), respectively; and

3           (2) by inserting after subsection (h) the fol-  
4           lowing new subsection:

5           “(i) INDIVIDUALS WHO ARE DEAF-BLIND.—

6           “(1) IN GENERAL.—Within 6 months after the  
7           date of the enactment of the Twenty-first Century  
8           Communications and Video Accessibility Act of  
9           2009, the Commission shall establish rules that de-  
10          fine as eligible for universal service support those  
11          programs that are certified by a State commission or  
12          approved by the Commission for the distribution of  
13          specialized customer premises equipment designed to  
14          make telecommunications service, Internet access  
15          services, and advanced communications, including  
16          interexchange services and advanced telecommuni-  
17          cations and information services, accessible by indi-  
18          viduals who are deaf-blind.

19          “(2) DEFINITION.—For the purposes of this  
20          subsection, the term ‘individuals who are deaf-blind’  
21          has the same meaning given such term in the Helen  
22          Keller National Center Act, as amended by the Re-  
23          habilitation Act Amendments of 1992 (29 U.S.C.  
24          1905(2)).

1           “(3) ANNUAL AMOUNT.—The total amount of  
2           universal service support that may be obligated or  
3           expended under this subsection for any fiscal year  
4           may not exceed \$10,000,000.”.

5   **SEC. 106. EMERGENCY ACCESS AND REAL-TIME TEXT SUP-**  
6                           **PORT.**

7           Title VII of the Communications Act of 1934 (47  
8   U.S.C. 601 et seq.) is further amended by inserting after  
9   section 717 (as added by section 104 of this Act) the fol-  
10   lowing new section:

11   **“SEC. 718. EMERGENCY ACCESS AND REAL-TIME TEXT AD-**  
12                           **VISORY COMMITTEE.**

13           “(a) ESTABLISHMENT.—For the purpose of achieving  
14   equal access to emergency services by individuals with dis-  
15   abilities, as a part of the migration to a national Internet  
16   protocol-enabled emergency network, not later than 60  
17   days after the date of enactment of the Twenty-first Cen-  
18   tury Communications and Video Accessibility Act of 2009,  
19   the Chairman of the Commission shall establish an advi-  
20   sory committee, to be known as the Emergency Access and  
21   Real-Time Text Advisory Committee (referred to in this  
22   section as the ‘Advisory Committee’).

23           “(b) MEMBERSHIP.—As soon as practicable after the  
24   date of enactment of the Twenty-first Century Commu-  
25   nications and Video Accessibility Act of 2009, the Chair-

1 man of the Commission shall appoint the members of the  
2 Advisory Committee, ensuring an equal balance between  
3 potential real-time text consumers and other stakeholders,  
4 and designate two such members as the co-chairs of the  
5 Committee. Members of the Advisory Committee shall be  
6 selected from the following groups:

7           “(1) STATE AND LOCAL GOVERNMENT AND  
8           EMERGENCY RESPONDER REPRESENTATIVES.—Rep-  
9           resentatives of State and local governments and rep-  
10          resentatives of emergency response providers, se-  
11          lected from among individuals nominated by national  
12          organizations representing such governments and  
13          personnel.

14          “(2) SUBJECT MATTER EXPERTS.—Individuals  
15          who have the requisite technical knowledge and ex-  
16          pertise to serve on the Advisory Committee in the  
17          fulfillment of its duties, including representatives  
18          of—

19                 “(A) providers of interconnected and non-  
20                 interconnected VoIP services;

21                 “(B) vendors, developers, and manufactur-  
22                 ers of systems, facilities, equipment, and capa-  
23                 bilities for the provision of interconnected and  
24                 non-interconnected VoIP services;

1           “(C) national organizations representing  
2           people with disabilities and senior citizens;

3           “(D) Federal agencies or departments re-  
4           sponsible for the implementation of the Next  
5           Generation E 9–1–1 system;

6           “(E) the National Institute of Standards  
7           and Technology; and

8           “(F) other individuals with relevant tech-  
9           nical expertise.

10          “(3) QUALIFIED REPRESENTATIVES OF OTHER  
11          STAKEHOLDERS AND INTERESTED PARTIES.—Quali-  
12          fied representatives of such other stakeholders and  
13          interested and affected parties as the Chairman of  
14          the Commission determines appropriate.

15          “(c) DEVELOPMENT OF RECOMMENDATIONS.—With-  
16          in six months after the completion of the member appoint-  
17          ment process by the Chairman of the Commission pursu-  
18          ant to subsection (b), the Advisory Committee shall de-  
19          velop and submit to the Commission recommendations—

20                 “(1) with respect to the definition of real-time  
21          text;

22                 “(2) with respect to what actions are necessary  
23          as a part of the migration to a national Internet  
24          protocol-enabled network to achieve reliable, inter-  
25          operable real-time text communication transmitted



1 over such network that will ensure access to emer-  
2 gency services by people with disabilities;

3 “(3) for protocols, technical capabilities, and  
4 technical requirements to ensure reliable, interoper-  
5 able real-time text communications necessary to en-  
6 sure access to emergency services by people with dis-  
7 abilities;

8 “(4) for the establishment of technical stand-  
9 ards for use by public safety answering points, des-  
10 ignated default answering points and local emer-  
11 gency authorities;

12 “(5) for relevant technical standards and re-  
13 quirements for communication devices and equip-  
14 ment and technologies to enable the use of reliable,  
15 interoperable real-time text communications;

16 “(6) for procedures to be followed by IP-en-  
17 abled network providers to ensure that such pro-  
18 viders do not install features, functions or capabili-  
19 ties that would conflict with technical standards; and

20 “(7) for deadlines by which providers of inter-  
21 connected and non-interconnected VoIP services and  
22 manufacturers of equipment used for such services  
23 shall achieve the actions required in paragraphs (1)  
24 through (6), and for the possible phase out of the  
25 use of current-generation TTY technology to the ex-

1 tent that this technology is replaced with real-time  
2 text.

3 “(d) MEETINGS.—

4 “(1) INITIAL MEETING.—The initial meeting of  
5 the Advisory Committee shall take place not later  
6 than 45 days after the completion of the member ap-  
7 pointment process by the Chairman of the Commis-  
8 sion pursuant to subsection (b).

9 “(2) OTHER MEETINGS.—After the initial meet-  
10 ing, the Advisory Committee shall meet at the call  
11 of the chairs, but no less than monthly until the rec-  
12 ommendations required pursuant to subsection (c)  
13 are completed and submitted.

14 “(3) NOTICE; OPEN MEETINGS.—Any meetings  
15 held by the Advisory Committee shall be duly no-  
16 ticed at least 14 days in advance and shall be open  
17 to the public.

18 “(e) RULES.—

19 “(1) QUORUM.—One-third of the members of  
20 the Advisory Committee shall constitute a quorum  
21 for conducting business of the Advisory Committee.

22 “(2) SUBCOMMITTEES.—To assist the Advisory  
23 Committee in carrying out its functions, the chair  
24 may establish appropriate subcommittees composed

1 of members of the Advisory Committee and other  
2 subject matter experts as deemed necessary.

3 “(3) ADDITIONAL RULES.—The Advisory Com-  
4 mittee may adopt other rules as needed.

5 “(f) FEDERAL ADVISORY COMMITTEE ACT.—Neither  
6 the Federal Advisory Committee Act (5 U.S.C. App.) nor  
7 any rule, order, or regulation promulgated under that Act  
8 shall apply to the Advisory Committee.

9 “(g) IMPLEMENTING RECOMMENDATIONS.—The  
10 Commission shall have the authority to promulgate regula-  
11 tions to implement the recommendations proposed by the  
12 Advisory Committee, as well as any other regulations,  
13 technical standards, protocols, and procedures as are nec-  
14 essary to achieve reliable, interoperable real-time text com-  
15 munication that ensures access by people with disabilities  
16 to an Internet protocol-enabled emergency network.”.

17 **SEC. 107. INTERNET ACCESS SERVICE INTERFACE.**

18 Title VII of the Communications Act of 1934 (47  
19 U.S.C. 601 et seq.) is further amended by adding after  
20 section 718 (as added by section 106 of this Act) the fol-  
21 lowing new section:

22 **“SEC. 719. INTERNET ACCESS SERVICE USER INTERFACE.**

23 “Every provider of Internet access service and every  
24 manufacturer of Internet access equipment shall, unless  
25 it would result in an undue burden, make user interfaces

1 for such service and equipment accessible to individuals  
 2 with disabilities, including those interfaces used to initiate,  
 3 monitor, and control such service.”.

## 4 **TITLE II—VIDEO PROGRAMMING**

### 5 **SEC. 201. COMMISSION INQUIRY ON CLOSED CAPTIONING**

#### 6 **DECODER AND VIDEO DESCRIPTION CAPA-** 7 **BILITY, USER INTERFACES, AND VIDEO PRO-** 8 **GRAMMING GUIDES AND MENUS.**

9 (a) INQUIRY REQUIRED.—The Federal Communica-  
 10 tions Commission shall conduct an inquiry on the fol-  
 11 lowing subjects:

12 (1) CLOSED-CAPTIONING DECODER AND VIDEO  
 13 DESCRIPTION CAPABILITY.—With respect to closed  
 14 captioning decoder and video description capability,  
 15 the Federal Communications Commission shall—

16 (A) describe—

17 (i) the formats and software com-  
 18 monly used by video programming pro-  
 19 viders or owners for exhibition on new  
 20 technologies, including those using the  
 21 Internet protocol (or a successor protocol)  
 22 and digital wireless services; and

23 (ii) the related technical issues associ-  
 24 ated with the implementation of closed

1 captioning and video description by means  
2 of such new technologies;

3 (B) describe the technical standards, pro-  
4 tocols, and procedures needed for the trans-  
5 mission of closed captioning and video descrip-  
6 tion by means of services using the Internet  
7 protocol (or a successor protocol) and digital  
8 wireless services and equipment; and

9 (C) describe—

10 (i) technical standards, protocols, and  
11 procedures needed to enable video pro-  
12 gramming providers and owners to trans-  
13 mit emergency information in a manner  
14 that is accessible to individuals who are  
15 blind or visually impaired; and

16 (ii) the persons or parties obligated to  
17 create, receive, and transmit such emer-  
18 gency information in accordance with such  
19 standards, protocols, and procedures.

20 (2) USER INTERFACES.—With respect to user  
21 interfaces, the Federal Communications Commission  
22 shall—

23 (A) describe the technical standards, proto-  
24 cols, and procedures needed to enable apparatus  
25 designed to receive or display video program-

1           ming transmitted simultaneously with sound  
2           (including apparatus designed to receive or dis-  
3           play video programming transmitted by means  
4           of services using the Internet protocol or suc-  
5           cessor protocol) to be capable of making the ap-  
6           paratus functions, necessary for the receipt, dis-  
7           play, navigation, or selection of video program-  
8           ming (and any other functions shared by, re-  
9           lated to, or necessary to access such apparatus  
10          functions), accessible to and usable by individ-  
11          uals with disabilities; and

12                 (B) describe the technical standards, pro-  
13          tocols, and procedures needed to enable on-  
14          screen text menus and other visual indicators  
15          used to access the functions described in sub-  
16          paragraph (A) to be accompanied by audio out-  
17          put so that such menus or indicators are acces-  
18          sible to and usable by individuals who are blind  
19          or visually impaired.

20                 (3) VIDEO PROGRAMMING GUIDES AND  
21          MENUS.—With respect to video programming guides  
22          and menus, the Federal Communications Commis-  
23          sion shall describe the technical standards, protocols,  
24          and procedures needed to enable video programming  
25          information and selection provided by means of a

1 navigational device, guide, or menu to be accessible  
2 in real-time by individuals with disabilities who are  
3 unable to read the visual display.

4 (b) REPORT ON INQUIRY.—Within 18 months after  
5 the date of enactment of this Act, the Federal Commu-  
6 nications Commission shall submit to the Congress a re-  
7 port on the results of such inquiry.

8 (c) DEFINITIONS.—For purposes of this section, the  
9 terms “video description” and “video programming” have  
10 the meanings provided by section 713(g) of the Commu-  
11 nications Act of 1934 (47 U.S.C. 613(g)).

12 **SEC. 202. CLOSED CAPTIONING DECODER AND VIDEO DE-**  
13 **SCRIPTION CAPABILITY.**

14 (a) AUTHORITY TO REGULATE.—Section 303(u) of  
15 the Communications Act of 1934 (47 U.S.C. 303(u)) is  
16 amended to read as follows:

17 “(u) Require that apparatus designed to receive  
18 or play back video programming (as such term is de-  
19 fined in section 713(g)) transmitted simultaneously  
20 with sound, when such apparatus is manufactured in  
21 the United States or imported for use in the United  
22 States and uses a picture screen that is 13 inches  
23 or greater in size—

1           “(1) be equipped with built-in closed cap-  
 2           tion decoder circuitry or capability designed to  
 3           display closed-captioned video programming;

4           “(2) have the capability to make available  
 5           the transmission and delivery of video descrip-  
 6           tion services as required by section 713(f); and

7           “(3) have the capability to convey emer-  
 8           gency information (as that term is defined in  
 9           section 79.2 of the Commission’s regulations  
 10          (47 C.F.R. 79.2)) in a manner that is acces-  
 11          sible to individuals who are blind or visually im-  
 12          paired.”.

13          (b) OTHER DEVICES.—Section 303 of the Commu-  
 14          nications Act of 1934 (47 U.S.C. 303) is further amend-  
 15          ed—

16               (1) by redesignating subsections (v) through (y)  
 17               as subsections (y) through (bb), respectively; and

18               (2) by inserting after subsection (u) the fol-  
 19               lowing new subsections:

20               “(v) Require, after inquiry, that apparatus de-  
 21               signed to receive or play back video programming  
 22               (as such term is defined in section 713(g)) trans-  
 23               mitted simultaneously with sound, when such appa-  
 24               ratus is manufactured in the United States or im-



1 ported for use in the United States and uses a pic-  
2 ture screen that is less than 13 inches in size—

3 “(1) be equipped with built-in closed cap-  
4 tion decoder circuitry or capability designed to  
5 display closed-captioned video programming;

6 “(2) have the capability to make available  
7 the transmission and delivery of video descrip-  
8 tion services as required by section 713(f); and

9 “(3) have the capability to convey emer-  
10 gency information (as that term is defined in  
11 section 79.2 of the Commission’s regulations  
12 (47 C.F.R. 79.2)), in a manner that is acces-  
13 sible to individuals who are blind or visually im-  
14 paired.

15 “(w) Require, after inquiry, that apparatus  
16 manufactured in the United States or imported for  
17 use in the United States that is designed to record  
18 video programming (as such term is defined in sec-  
19 tion 713(g)) transmitted simultaneously with sound,  
20 retain and permit the pass through of closed cap-  
21 tions and video description signals such that viewers  
22 will be able to activate and deactivate the closed cap-  
23 tions and video description when the video program-  
24 ming is played back on a picture screen of any size.  
25 Interconnection mechanisms and standards for dig-

1       ital video source devices must be able to carry pro-  
2       gram related accessibility data for people with dis-  
3       abilities from the source device to the consumer  
4       equipment so that the consumer is able to display  
5       closed captions and make encoded video description  
6       audible.

7               “(x) Exempt from requirements of subsections  
8       (u) and (v) any apparatus or class of apparatuses  
9       that are display-only video monitors, with no play-  
10      back capability and shall have the authority to waive  
11      the requirements of such subsections for any appa-  
12      ratus or class of apparatuses.”.

13      (c) SHIPMENT IN COMMERCE.—Section 330(b) of the  
14      Communications Act of 1934 (47 U.S.C. 330(b)) is  
15      amended—

16              (1) by striking “303(u)” in the first sentence  
17      and inserting “303(u), (v), and (w)”;

18              (2) by striking the second sentence and insert-  
19      ing the following: “Such rules shall provide perform-  
20      ance and display standards for such built-in decoder  
21      circuitry or capability designed to display closed cap-  
22      tioned video programming, the transmission and de-  
23      livery of video description services and the convey-  
24      ance of emergency information as required by sec-  
25      tion 303 of this Act,”; and

1           (3) in the fourth sentence, by inserting “and  
2       video description service” after “closed-captioning  
3       service”.

4       (d) IMPLEMENTING REGULATIONS.—The Federal  
5       Communications Commission shall prescribe such regula-  
6       tions as are necessary to implement the requirements of  
7       this section, including any technical standards, protocols,  
8       and procedures needed for the transmission of closed cap-  
9       tioning, video description and emergency information,  
10      within 12 months after the submission of the report to  
11      Congress required by section 201(b) of this Act.

12   **SEC. 203. VIDEO DESCRIPTION AND CLOSED CAPTIONING.**

13       (a) VIDEO DESCRIPTION.—Section 713 of the Com-  
14      munications Act of 1934 (47 U.S.C. 613) is amended by  
15      striking subsections (f) and (g) and inserting the fol-  
16      lowing:

17       “(f) VIDEO DESCRIPTION.—

18           “(1) REINSTATEMENT OF RULES.—The video  
19      description regulations of the Commission contained  
20      in the report and order identified as Implementation  
21      of Video Description of Video Programming, Report  
22      and Order (15 F.C.C.R. 15,230 (2000)), when such  
23      rules are republished and refreshed pursuant to  
24      paragraph (2), shall—

1           “(A) be considered to be in full force and  
2           effect and ratified by law; and

3           “(B) apply to video programming (as such  
4           term is defined in subsection (g)) that is first  
5           published or exhibited after the date of enact-  
6           ment of the Twenty-first Century Communica-  
7           tions and Video Accessibility Act of 2009.

8           “(2) CONTINUING AUTHORITY OF THE COMMIS-  
9           SION.—The Commission shall—

10           “(A) within 45 days after the date of en-  
11           actment of the Twenty-first Century Commu-  
12           nications and Video Accessibility Act of 2009—

13           “(i) publish and refresh its video de-  
14           scription regulations contained in the re-  
15           port and order identified as Implementa-  
16           tion of Video Description of Video Pro-  
17           gramming, Report and Order (15 F.C.C.R.  
18           15,230 (2000)) in a manner that provides  
19           the same or an improved level of video de-  
20           scription service; and

21           “(ii) apply the requirements of such  
22           report and order to owners of and pro-  
23           viders of video programming (as such term  
24           is defined in subsection (g));

1           “(B) initiate a proceeding, to be completed  
2           within 12 months after the submission of the  
3           report to Congress required by section 201(b)  
4           of the Twenty-first Century Communications  
5           and Video Accessibility Act of 2009 to—

6                   “(i) identify methods to convey emer-  
7                   gency information (as that term is defined  
8                   in section 79.2 of the Commission’s regula-  
9                   tions (47 C.F.R. 79.2)) in a manner acces-  
10                  sible to individuals who are blind or vis-  
11                  ually impaired; and

12                   “(ii) promulgate regulations that re-  
13                   quire video programming providers and  
14                   video programming distributors (as those  
15                   terms are defined in section 79.1 of the  
16                   Commission’s regulations (47 C.F.R.  
17                   79.1)) and owners of video programming  
18                   to convey such emergency information in a  
19                   manner accessible to individuals who are  
20                   blind or visually impaired, consistent with  
21                   the requirements of such section of such  
22                   regulations; and

23           “(C) promulgate any other regulation that  
24           the Commission may find necessary to imple-  
25           ment, enforce, or otherwise carry out the provi-

sions of this section, including regulations to increase the amount of video description required to achieve full access to video programming for individuals who are blind or visually impaired.

“(3) REQUIREMENTS FOR RULES.—

“(A) The regulations described in paragraph (1) and republished and refreshed, or otherwise increased or enhanced, pursuant to subparagraphs (A) or (C) of paragraph (2) shall include an appropriate schedule of deadlines for the provision of video description of video programming.

“(B) Such regulations may permit a provider of video programming or program owner to petition the Commission for an exemption from the requirements of this section upon a showing that the requirements contained in this section would result in an undue burden (as defined in subsection (e)). A provider shall be exempt from such requirements only after the Commission decides to grant any such petition.

“(C) The Commission may exempt from the regulations established pursuant to paragraph (2)(C) services, classes of services, programs, classes of programs, equipment, or

1 classes of equipment for which the Commission  
2 has determined that the application of such reg-  
3 ulations would be economically burdensome to  
4 the providers of such services.

5 “(g) DEFINITIONS.—For purposes of this section:

6 “(1) VIDEO DESCRIPTION.—The term ‘video de-  
7 scription’ means the insertion of audio narrated de-  
8 scriptions of the video programming’s key visual ele-  
9 ments into natural pauses between the program’s  
10 dialogue.

11 “(2) VIDEO PROGRAMMING.—The term ‘video  
12 programming’ means programming provided by, or  
13 generally considered comparable to programming  
14 provided by, a television broadcast station, even if  
15 such programming is distributed over the Internet or  
16 by some other means.”.

17 (b) CLOSED CAPTIONING ON VIDEO PROGRAMMING  
18 DISTRIBUTED OVER THE INTERNET.—Section 713 of  
19 such Act is further amended by striking subsection (c) and  
20 inserting the following:

21 “(c) DEADLINES FOR CAPTIONING.—

22 “(1) IN GENERAL.—The regulations prescribed  
23 pursuant to subsection (b) shall include an appro-  
24 priate schedule of deadlines for the provision of  
25 closed captioning of video programming.

1           “(2) DEADLINES FOR INTERNET-DISTRIBUTED  
2 PROGRAMMING.—

3           “(A) Within 12 months after the submis-  
4 sion of the report to Congress required by sec-  
5 tion 201(b) of the Twenty-first Century Com-  
6 munications and Video Accessibility Act of  
7 2009, the Commission shall prescribe regula-  
8 tions that include an appropriate schedule of  
9 deadlines for the provision of closed captioning  
10 of video programming distributed to the public  
11 over the Internet.

12           “(B) Consistent with the regulations pro-  
13 mulgated under subsection (b), the regulations  
14 prescribed under this paragraph shall ensure  
15 the accessibility of video programming, except  
16 for consumer generated media, through the pro-  
17 vision of captions on—

18           “(i) preproduced video programming  
19 that was previously captioned for television  
20 viewing;

21           “(ii) live video programming; and

22           “(iii) video programming first pub-  
23 lished or exhibited after the effective date  
24 of such regulations provided by or gen-  
25 erally considered to be comparable to pro-



1                   gramming provided by multichannel pro-  
2                   gramming distributors.”.

3           (c) CONFORMING AMENDMENT.—Section 713(d) of  
4 such Act is amended by striking paragraph (3) and insert-  
5 ing the following:

6                   “(3) a provider of video programming or pro-  
7                   gram owner may petition the Commission for an ex-  
8                   emption from the requirements of this section,  
9                   and—

10                   “(A) the Commission may grant such peti-  
11                   tion upon a showing that the requirements con-  
12                   tained in this section would result in an undue  
13                   burden; and

14                   “(B) such exemption shall be effective only  
15                   after the Commission grants such petition.”.

16 **SEC. 204. USER INTERFACES REGULATIONS.**

17           (a) AMENDMENT.—Section 303 of the Communica-  
18 tions Act of 1934 (47 U.S.C. 303) is further amended by  
19 adding at the end the following new subsection:

20                   “(cc)(1) Require, after inquiry—

21                   “(A) that apparatus designed to re-  
22                   ceive or play back video programming  
23                   transmitted simultaneously with sound, in-  
24                   cluding apparatus designed to receive or  
25                   display video programming transmitted by

1 means of services using the Internet pro-  
2 tocol (or successor protocol), be designed,  
3 developed, and fabricated so that control of  
4 all apparatus functions enabling the re-  
5 ceipt, display, navigation, or selection of  
6 video programming (and any other func-  
7 tions shared by, related to, or necessary to  
8 access such apparatus functions), are ac-  
9 cessible to and usable by individuals with  
10 disabilities;

11 “(B) that where on-screen text menus  
12 or other visual indicators are used to ac-  
13 cess the functions described in subpara-  
14 graph (A), such functions be accompanied  
15 by audio output that is either integrated or  
16 peripheral to the apparatus, so that such  
17 menus or indicators are accessible to and  
18 usable by individuals who are blind or vis-  
19 ually impaired in real-time; and

20 “(C) that user controls need to access  
21 closed captioning and video description, in-  
22 cluding—

23 “(i) a button, key, or icon on the  
24 remote control of such apparatus  
25 (where a remote control is provided

1 with the apparatus) designated for ac-  
2 tivating the closed caption function;  
3 and

4 “(ii) the inclusion of ‘closed cap-  
5 tions’ and ‘video description’ on the  
6 first menu that appears when on-  
7 screen menus are displayed on such  
8 apparatus.

9 “(2) For purposes of this subsection, the  
10 terms ‘video description’ and ‘video program-  
11 ming’ have the meanings given such terms in  
12 section 713(g).”.

13 (b) IMPLEMENTING REGULATIONS.—Within 12  
14 months after the submission of the report to Congress re-  
15 quired by section 201(b) of this Act, the Federal Commu-  
16 nications Commission shall prescribe such regulations as  
17 are necessary to implement the amendments made by sub-  
18 section (a).

19 **SEC. 205. ACCESS TO VIDEO PROGRAMMING GUIDES AND**  
20 **MENUS.**

21 (a) AMENDMENT.—Section 303 of the Communica-  
22 tions Act of 1934 (47 U.S.C. 303) is further amended by  
23 adding after subsection (cc), as added by section 204 of  
24 this Act, the following new subsection:

1           “(dd) Require each provider or owner of video  
2           programming (as such term is defined in section  
3           713(g)), with the exception of consumer generated  
4           media, and each multichannel programming dis-  
5           tributor to ensure that video programming informa-  
6           tion and selection provided by means of a naviga-  
7           tional device, guide, or menu is accessible in real-  
8           time by individuals with disabilities who are unable  
9           to read the visual display.”.

10       (b) IMPLEMENTING REGULATIONS.—Within 12  
11 months after the submission of the report to Congress re-  
12 quired by section 201(b) of this Act, the Federal Commu-  
13 nications Commission shall prescribe such regulations as  
14 are necessary to implement the amendments made by sub-  
15 section (a).

○